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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,616	04/05/2001	Hugh Anglin	EWG-143 US	4050
23735	7590	11/03/2005	EXAMINER	
DIGIMARC CORPORATION 9405 SW GEMINI DRIVE BEAVERTON, OR 97008			THOMPSON, JAMES A	
			ART UNIT	PAPER NUMBER
			2624	
DATE MAILED: 11/03/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/826,616

Applicant(s)

ANGLIN, HUGH

Examiner

James A. Thompson

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 03 October 2005. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-5, 8-10, 12, 13 and 15-24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Since the proposed amendments to the claims merely correct formal matters which have been objected to and correct clearly unintentional oversights, and thus do not alter the substance of the claim limitations, the **proposed amendments are hereby entered**. Furthermore, since the scope of the claims has not been altered, the rejections can stand as stated in the previous office action, dated 15 June 2005, and do not need to be altered based on any of the amendments.

2. Applicant's amendments overcome the objections to the abstract listed in item 7 of said previous office action. The objections to the abstract listed in item 7 of said previous office action have therefore been withdrawn.

3. Applicant's amendments overcome the objections to claims 2-5, 9-10, 12-13, 16 and 18-24 listed in item 8 of said previous office action. The objections to claims 2-5, 9-10, 12-13, 16 and 18-24 listed in item 8 of said previous office action have therefore been withdrawn.

4. Applicant's amendments overcome the objections to claims 1, 8, 15 and 17 listed in item 9 of said previous office action. The objections to claims 1, 8, 15 and 17 listed in item 9 of said previous office action have therefore been withdrawn.

Response to Arguments

5. Applicant's arguments filed 03 October 2005 have been fully considered but they are not persuasive.

Applicant alleges that Bhaskaran (US Patent 6,064,764) is inapplicable to watermarks embedded in printed images, as taught by Cox (US Patent 5,915,027).

Examiner responds that Bhaskaran has not been relied upon to specifically teach detection of tampering of *printed* images via fragile watermarks, but to teach detection of tampering of images *in general* via the use of fragile watermarks. One of ordinary skill in the art at the time of the invention would not fully use the exact type of watermark taught by Bhaskaran in the system of Cox. In other words, the precise type of fragile watermark taught by Bhaskaran would not be bodily incorporated within the system taught by Cox. Applicant is respectfully reminded that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Bhaskaran would have suggested to one of ordinary skill in the art at the time of the invention to modify Cox using a fragile watermark to detect tampering.

Furthermore, both Cox and Bhaskaran do use a similar type of watermark. Specifically, the watermark taught by Cox and the watermark taught by Bhaskaran are both spectrally shaped. In Cox, the data to be watermarked and the watermark signal are both input into respective spectral transformers, which then

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shapes the data and the watermark signal to produce watermarked data (see figure 1 of Cox). In Bhaskaran, the watermark is also based on spectral components since said watermark is embedded in JPEG image files (see figure 1 of Bhaskaran). As is well-known in the art, JPEG compression is based on a Discrete Cosine Transform (DCT). The data stored relating to a DCT are spectral components of the image data.

Furthermore, as stated in part above, even though the precise watermark taught by Bhaskaran may have some specific technical differences compared with the precise watermark taught by Cox, one of ordinary skill in the art at the time of the invention would clearly be able to modify the watermark taught by Cox according to the suggestions taught in Bhaskaran, namely the modification of the watermark of Cox such that said watermark is a fragile watermark, thus allowing for the detection of tampering.

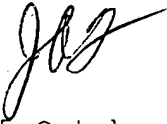
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



25 October 2005

James A. Thompson
Examiner
Art Unit 2624



THOMAS D.
~~THOMPSON~~
PRIMARY EXAMINER